UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

September 9, 2015 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	15-20600-D-11 SAEED ZARAKANI DB-1 VAN DE POL ENTERPRISED, INC. VS.	CONTINUED STATUS CONFERENCE RE: MOTION FOR RELIEF FROM AUTOMATIC STAY 6-16-15 [89]
2.	14-29905-D-11 RAVINDER GILL	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 10-2-14 [1]

3.	14-26408-D-7 PA-5	MARK GILROY	MOTION TO SELL FREE AND CLEAR OF LIENS AND/OR MOTION TO EMPLOY WEST AUCTIONS, INC. AS AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES 8-11-15 [78]

4.	14-27719-D-7 PPR-1	OMAR OCHOA MENDOZA AND VICTORIA OCHOA	MOTION FOR CONSENT TO ENTER INTO LOAN MODIFICATION AGREEMENT 7-15-15 [15]

Final ruling:

This is a joint motion of Bank of America (the "Bank") and the debtors (collectively, the "Parties") for an order permitting the Parties to enter into a loan modification as to the loan secured by a lien on the debtors' residence. It appears from the motion that the Bank is seeking a comfort order.[1] The motion adds that if the court finds the motion to be "unnecessary to effectuate the loan modification agreement," the Parties would like an order "stating that permission is not needed by the Court to enter into the instant loan modification agreement." Mot. at 2:3-5.

The debtors received their discharge in this case in November of 2014; it appears the case remains open for the trustee to administer assets. (In October of 2014, the trustee issued a notice to creditors to file a claim due to the possible recovery of assets.) The Parties have provided the court with no authority for any of the relief requested. Specifically, there is no authority for the court to issue an order determining the loan modification agreement to be "valid notwithstanding the automatic stay" or determining prospectively that the Bank will not be liable for violations of the stay. Nor is there authority for the court to issue an order deeming the motion unnecessary to "effectuate" the loan modification agreement. In short, there is no authority for the relief requested, and as the debtors' discharge has been entered, the motion appears unnecessary. Accordingly, the motion will be denied by minute order. No appearance is necessary.

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1 The motion states, "WHEREAS, the loan modification agreement will be valid notwithstanding the automatic stay provisions of 11 U.S.C. § 362(a), and the Creditor will not be liable for violations of the stay for communications in furtherance of that purpose, execution of the applicable documents or recording of the documents during the Debtors' case." Mot. at 2:22-25.

5. 14-25820-D-11 INTERNATIONAL MANUFACTURING GROUP, INC.
15-2130
MCFARLAND V. GENERAL ELECTRIC CAPITAL CORPORATION

MOTION TO DISMISS ADVERSARY PROCEEDING
7-24-15 [8]

The court will post its ruling on this matter no later than September 8, 2015 at 4:00 p.m.

6. 14-21822-D-7 EMMA/MACK JACKSON
SCB-2

MOTION TO EMPLOY BAR NONE AUCTION AS AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
8-12-15 [26]

Tentative ruling:

This is the trustee's motion for authority to sell a vehicle at auction and to employ Bar None Auctions to conduct the auction. The motion was brought pursuant to LBR 9014-1(f)(1) and no party-in-interest has filed opposition. However, the court is not prepared to grant the motion at this time because the declaration supporting the employment of Bar None Auctions is insufficient to permit the court to conclude that Bar None is a disinterested person and does not hold or represent an interest adverse to the estate, as required by § 327(a) of the Bankruptcy Code.

Bar None's president testifies that he and his firm are disinterested persons and that neither he nor anyone on his staff holds or represents an interest materially adverse to the interests of the trustee or the estate "by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors or the Chapter 7 Trustee." J. Seidel Decl. at 3:4-6. Whether a professional is a disinterested person and whether a professional holds or represents an adverse interest are conclusions the court is to draw, not the professional. Further, the declarant refers in that sentence only to the absence of a relationship to, connection with, or interest in the debtors or the trustee; he does not mention creditors or other parties-in-interest. The declarant also states that neither he nor anyone on his staff "has any connection with the Debtors, the Chapter 7 Trustee, the United States Trustee's Office, or any person employed in the United States Trustee's Office, or their respective attorneys and accountants." Id. at 3:9-11. Again, noticeably missing is any reference to the creditors and other parties-in-interest in the case. As a result of these omissions, the declaration does not comply with Fed. R. Bankr. P. 2014(a) or LBR 2014-1.

The court will hear the matter and, if an appropriate supplemental declaration has been filed by the time of the hearing, with a file-stamped copy available for the court's review, the court will grant the motion. Otherwise, the court will consider continuing the hearing.

7. 14-22526-D-7 DAVID JONES MOTION FOR CONTEMPT
PLC-4 8-6-15 [143]

Tentative ruling:

This is the debtor's motion for an order finding John Meredith to be in civil contempt for violating the automatic stay, for which the debtor asks that Meredith be "sanctioned accordingly" and ordered to pay the debtor's reasonable attorney's fees. Meredith has filed opposition and requested sanctions of his own – against the debtor's counsel. The debtor has filed a response. For the following reasons, the motion will be denied, as will Meredith's request.

The debtor and Meredith are parties to an adversary proceeding in this court brought by Meredith against the debtor for a determination that an alleged debt owed by the debtor to Meredith is nondischargeable and for denial of the debtor's discharge. The adversary proceeding was commenced in June of 2014 and is set for a pretrial conference on November 12, 2015.

This motion arises out of a message left on the debtor's personal cell phone on July 10, 2015 wherein Meredith is alleged to have said, in a condescending tone: "Yeah David Jones, this is John. I was just wondering if you want to, ah, sit down and settle this thing up or do you want to continue to keep bantering here. I don't know if you are getting tired of it yet. But anyways, if you're interested, you know how to contact me. Maybe we can put this thing to bed if you're willing. So anyways, have a good day." Debtor's Ex. 2. The debtor testifies to his receipt of this message and to its accurate transcription. He adds that he has received several other calls at his place of employment which showed Meredith on the caller ID. He states that in each instance, the caller hung up before saying anything. The debtor testifies to being very irritated by these calls and hang-ups and to having felt a surge of anxiety and being sick to his stomach when he saw the caller ID on his personal cell phone, which happened while he was in a hospital emergency room after breaking a bone and spraining his ankle. The debtor decided not to take the call at that time; he adds that he was in pain and nervous and upset about his injury when he heard Meredith's voice and listened to the message the next day.

Meredith does not deny leaving this message.[1] By way of background, he testifies to his claim against the debtor having dragged on for over two years, through mediation, arbitration, a lawsuit against Telecomm, a lawsuit against Everything Radios, Inc., the death of another individual, Viliami Paea and his probate proceedings, the bankruptcies of Telecomm and the debtor, and the current adversary proceeding, all of which Meredith says have generated attorney's fees of almost $100,000. Meredith states he has "felt increasing pressure to resolve these cases." Meredith Decl., filed Aug. 23, 2015, at 4:5-6. With regard to the cell phone message he left for the debtor, Meredith states:

> **Accordingly, on a single occasion, I called David Jones directly on his cellular telephone to see if he was interested in settling all these cases. David Jones did not answer, and so I left a voice message inviting him to discuss settlement. I did not intend to harass him, or annoy him, and I sincerely only wanted to see if he was interested in settling these cases. [¶] I was aware that David Jones filed bankruptcy. I was not aware, nor was I ever informed, that I was prohibited from contacting David Jones at all.**

Id. at 4:7-15.

Meredith claims his message did not violate the automatic stay. He cites Zotow v. Johnson (In re Zotow), 432 B.R. 252 (9th Cir. BAP 2010), in which the Bankruptcy Appellate Panel stated that "mere requests for payment," unaccompanied by coercion, harassment, or pressure to pay, do not violate the stay. 432 B.R. at 258. The communication involved in Zotow was a payment change notification from a mortgage servicer, as opposed to a voice message from an individual creditor left on the debtor's personal cell phone. In any event, for the reasons discussed below, the court need not determine whether Meredith's message to the debtor violated the stay.

First, the fact that Meredith may have contacted David Jones to discuss settlement of an adversary proceeding filed post-petition does not per se violate the automatic stay. Although a party's attorney may be prohibited from contacting an individual who is a party to litigation who is represented by an attorney, there is no prohibition to parties directly communicating with one another regarding ongoing litigation.[2] Second, the court finds that the message, even if it did violate the stay, did not significantly harm the debtor. It appears the debtor's accident and resulting visit to the emergency room worsened his reaction to seeing Meredith's name on his caller ID. The debtor claims the message "added insult to injury" (Jones Decl., filed Aug. 6, 2015, at 3:5), and he characterizes Meredith as "[going] after [the debtor's] personal peace and protection the bankruptcy court is supposed to provide [him]." Id. at 3:18-19. However, Meredith is not alleged to have known about the accident and emergency room visit, and in the court's view, the message itself is relatively innocuous. In short, the court is simply not convinced there has been compensable damage here.

The debtor also refers in his declaration to an alleged email, a copy of which he filed as an exhibit, in which Meredith apparently referred to doing "whatever it takes to bury [the debtor]" (Debtor's Ex. 1) and to putting the debtor out business. The debtor attempts to tie the email in to the present motion by stating, "That is exactly what JOHN MEREDITH did to me, put me out of business and I feel like he is trying to bury me." Jones Decl., at 2:9-10. The court will disregard the email as irrelevant as it predates the filing of the debtor's bankruptcy case by eight months, and therefore, has nothing to do with whether Meredith has violated the automatic stay. Although the email might be said to have some bearing on Meredith's attitude toward the debtor, it is far too attenuated in time to be of relevance here.

Finally, Meredith points out that the cited email was from him to his attorney. He claims the debtor obtained the email by hacking into Meredith's email account in violation of Cal. Pen. Code § 502 and the attorney-client privilege, and he complains that the debtor previously obtained three other emails between Meredith and his attorney, also illegally, which the debtor attached to his answer in the adversary proceeding. Meredith concludes that "the Debtor's accessing and filing with the Court e-mail communications between John Meredith and his Attorney must be found improper and Debtor's counsel should be sanctioned." Meredith's Opp., filed Aug. 23, 2015, at 9:20-22. According to Meredith's exhibits, his attorney raised this issue with the debtor's attorney ten months ago, stating he would seeks damages, injunctive relief, and sanctions if the debtor's attorney did not ask the court to remove the emails from the record. The debtor's attorney responded that the email account had been used and paid for by Telecomm, that Meredith gave the password to the debtor, and that the debtor continued to monitor the account for Telecomm business orders. Meredith's attorney rejected that analysis as soon as he received it, and reiterated his demand that the debtor's attorney take corrective

action.

That last communication on this subject was made almost ten months ago, and since then, so far as the record reveals, neither party has taken any action with respect to the emails. Although the debtor has submitted a declaration in response to Meredith's charges, these issues are unrelated to the debtor's motion for an order of contempt and were not properly raised in opposition to that motion. Further, the court is certainly not prepared to conclude that a crime has been committed or to make any findings regarding the issue of the attorney-client privilege, whether it has been waived, and so on. Accordingly, Meredith's request for sanctions will be denied.

For the reasons stated, the motion and Meredith's request for sanctions will both be denied. The court will hear the matter.

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1 Meredith has, however, objected that the transcription of the message is unauthenticated and inadmissible. The court does not agree. The transcription is authenticated by the debtor, who testifies he heard the message. The transcription is not hearsay as it is the statement of a party opponent. Thus, the court will consider it.

2 In his reply, the debtor cites McHenry v. Key Bank (In re McHenry), 179 B.R. 165 (9th Cir. BAP 1995), for the proposition that "[a] phone call to 'settle' a debt is a violation of the stay." Debtor's Response, filed Sept. 1, 2015, at 4:11. The debtor did not provide a pin cite and the court has not found that statement in the reported decision, although the Panel did find the particular phone call in that case to have been a violation of the stay. 179 B.R. at 167. What the debtor does not point out is the Panel's conclusion that, although the debtors were "inconvenienced and annoyed," they "had shown no actual damages." Id. At 168. The court reaches the same conclusion in this case.

8.	15-25930-D-11	SILVERHAWK INC.	STATUS CONFERENCE RE: VOLUNTARY PETITION 7-28-15 [1]

Final ruling:

This case was dismissed on August 13, 2015. As a result the status conference is concluded. No appearance is necessary.

9.	06-22532-D-7 SMD-3	RIO MORALES	MOTION FOR ADMINISTRATIVE EXPENSES 8-10-15 [584]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to pay administrative expense claims resulting from taxes incurred by the estate is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

10. 15-24140-D-7 DONALD/CONSTANCE SPAINHOWER
TSC-1
BANK OF AMERICA, N.A. VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-4-15 [14]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant relief from stay. As the debtors' Statement of Intentions indicates they will surrender the property, the court will also waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

11. 15-23746-D-7 GORDON BONES
BLF-2

CONTINUED AMENDED MOTION TO COMPEL ABANDONMENT
6-25-15 [31]

12. 15-24146-D-7 ROY/GAIL LINGLEY
JFL-1
CARRINGTON MORTGAGE SERVICES, LLC VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
8-12-15 [24]

Final ruling:

This matter is resolved without oral argument. This is Carrington Mortgage Services, LLC's motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

13. 14-32452-D-11 JOHN RODRIGO

ORDER TO SHOW CAUSE
8-14-15 [98]

14. 10-47553-D-7 EAS-6 — CHARLES PROTTEAU — MOTION TO AVOID LIEN OF ARCADIA, INC. 8-6-15 [70]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

15. 10-47553-D-7 EAS-7 — CHARLES PROTTEAU — MOTION TO AVOID LIEN OF MICHAEL P. ALLEN GENERAL CONTRACTORS, INC. 8-6-15 [85]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

16. 10-47553-D-7 EAS-8 — CHARLES PROTTEAU — MOTION TO AVOID LIEN OF L.A. COMMERCIAL GROUP, INC. 8-6-15 [80]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

17. 10-47553-D-7 EAS-9 — CHARLES PROTTEAU — MOTION TO AVOID LIEN OF FIDELITY RECOVERY SERVICE 8-6-15 [75]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

18. 09-29162-D-11 SK FOODS, L.P. CONTINUED OMNIBUS OBJECTION TO CLAIMS
SH-316 2-25-15 [5500]

Final ruling:

Pursuant to a stipulated order filed August 19, 2015, this matter is removed from calendar.

19. 14-23368-D-7 JESSE M. LANGE MOTION FOR ADMINISTRATIVE EXPENSES AND/OR MOTION TO PAY
BLL-13 DISTRIBUTOR, INC. 7-24-15 [109]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to pay administrative expense claims resulting from taxes incurred by the estate is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

20. 14-23368-D-7 JESSE M. LANGE MOTION FOR COMPENSATION FOR BYRON LEE LYNCH, TRUSTEE'S ATTORNEY
BLL-14 DISTRIBUTOR, INC. 7-24-15 [103]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion and the moving party is to submit an appropriate order. No appearance is necessary.

21. 15-22975-D-7 LETICIA GONZALEZ MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1 7-31-15 [17]
SANTANDER CONSUMER USA, INC.
VS.

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The debtor received her discharge on August 18, 2015 and, as a result, the stay is no longer in effect as to the debtor (see 11 U.S.C. § 362(c)(3)). Accordingly, the motion will be denied as to the debtor as moot. The court will grant relief from stay as to the trustee and the estate, and will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

22. 15-23286-D-7 NBC-2 — TOBY GARMAN AND ANGELA JOHNSON-GARMAN — MOTION TO AVOID LIEN OF PACIFIC SERVICE CREDIT UNION 7-27-15 [20]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

23. 13-35288-D-7 14-2097 GENERAL COUNCIL OF THE ASSEMBLIES OF GOD V. BOLE ET — DUSTIN/KAREN BOLE — MOTION TO COMPEL, MOTION TO AMEND DISCOVERY SCHEDULE 7-9-15 [102]

Tentative ruling:

This is the defendants' motion to compel the plaintiff to provide further responses to discovery requests and to extend the discovery bar date in this adversary proceeding. The plaintiff has filed opposition. For the following two reasons, the motion will be denied.

The defendants claim "the Plaintiffs have refused to provide the required discovery responses in this matter, have misrepresented when responses would be forthcoming, and have failed to communicate, leaving Defendants no other choice than to seek Court intervention." Defendants' Motion, filed July 9, 2015, at 1:20-23. The specific requests to which the defendants are seeking additional responses are requests for production of documents which were filed and apparently served on February 10, 2015 and April 14, 2015, respectively.

A brief procedural history of this adversary proceeding is in order. The proceeding was commenced on April 8, 2014. On September 17, 2014, almost a year ago, the parties filed a Joint Proposed Discovery Plan in which they proposed that all non-expert discovery would be completed by January 15, 2015; that expert discovery, if any, would be completed by March 15, 2015; and that dispositive motions would be filed by April 30, 2015. The court adopted roughly that schedule in a Scheduling Order issued September 18, 2014, setting the discovery bar date as January 30, 2015. On January 30, 2015, the parties filed a Joint Request to Extend Deadlines by 45 Days Pursuant to Stipulation, whereby they requested that the discovery bar date be extended to March 16, 2015. The request was granted by an Amended Scheduling Order filed February 2, 2015. Neither party filed anything further concerning the discovery bar date until the defendants filed this motion, on July 9, 2015. A pretrial conference was scheduled for September 17, 2015, and has since been continued by the court to October 1, 2015.

Thus, this motion was filed almost four months after the already-extended discovery bar date expired, 15 months after the adversary proceeding was commenced, and one year after the defendants filed their answer to the plaintiff's complaint.

Although the parties originally agreed – on September 17, 2014 – to a discovery bar date of January 15, 2015, and the court originally gave them until January 30, 2015, there is no indication in the record that the defendants conducted any discovery during those four and one-half months. Instead, they waited until February 10, 2015, shortly after the parties had agreed to extend the discovery bar date to March 16, 2015, before serving their first request for production of documents by the plaintiff. As the plaintiff had 30 days from the date of service to respond to the request, the defendants allowed themselves virtually no time to seek an order requiring further responses if the plaintiff's original responses proved insufficient.

The defendants have provided no explanation for these delays. The court is aware that the defendants are representing themselves, a fact the court has kept in mind throughout this proceeding. However, individuals representing themselves are bound by all applicable rules and law. Local Dist. Rule 183(a), incorporated herein by LBR 1001-1(c). It is clear the defendants were aware there would be a discovery bar date in this proceeding from as earlier as September 17, 2014, when they signed the joint discovery plan and agreed to be bound by a discovery bar date of January 15, 2015. They were also aware of the extended bar date, March 16, 2015, and agreed to it. There is nothing in the record to indicate the defendants were prevented from conducting discovery in a timely manner, and the court finds no reason to give them extra time to do so at this late stage.

Although not the primary reason, the motion will also be denied because the defendants have failed to meet and confer or attempt to meet and confer with the plaintiff in a good faith effort to obtain the requested discovery without court action, as required by Fed. R. Civ. P. 37(a)(1), incorporated herein by Fed. R. Bankr. P. 7037. At a status conference held July 9, 2015, the same day this motion was filed, the filing of the motion was raised and the court referred the parties to its decision in In re Sanchez, Adv. Proc. No. 06-2251,[1] for the standards to which the court holds parties in determining whether they have made a good faith effort to meet and confer. The defendants have offered nothing before or since to demonstrate they made any attempt to meet and confer. The plaintiff's counsel has testified she emailed the defendants, albeit late in the game (on August 21 and August 24), requesting a schedule to meet and confer and has received no response.

The moving and responding papers raise additional issues that need to be addressed briefly. First, the defendants appear concerned that they have obtained three boxes of discovery from the Northern California / Nevada District Resource Center Store which they have made available to the plaintiff, but the plaintiff has not picked them up or had copies made. The defendants state, "Plaintiffs' counsel, Ms. Gehrke, misrepresented to Defendants that the three (3) boxes of documents for Defendants' discovery would be scanned and sent in as discovery." Mot. at 5:4-6. The defendants also express concern that they may be prejudiced by "their inability to adequately and reasonably provide[] requested documentation." Id. at 1:27. The court is unsure what the defendants mean by "sent in as discovery" or why they are concerned about their ability to produce requested documents. However, the court will explain to the defendants that documents produced or made available in response to discovery requests are not "sent in" to the court; thus, at least at this time, there is no issue for the court to decide in regards to the three boxes of documents, and, so far as the court is aware, no reason the defendants could not offer the documents at trial if they choose.[2] The defendants' ability to submit those documents into evidence at trial assumes, of course, that the defendants comply with all applicable rules, including the Federal Rules of Evidence, with respect to the documents, and also assumes they include the documents in the list of

exhibits in their pretrial statement.[3]

The defendants also refer in the motion to not having access to their depositions, apparently their deposition transcripts. According to the excerpts cited by the plaintiff, the defendants were made aware at the depositions that they could review the original transcripts at the court reporter's office. The plaintiff has no obligation to pay for copies for the defendants, and there is no indication the defendants have had a request to purchase copies denied.

Finally, with regard to its response to one of the defendants' document requests, the plaintiff refers to a "document summarizing Plaintiff's sales for an 8-year span to [a] third party, the Northern California & Nevada District Store." Resp. at 5:23-24. The plaintiff adds that "because this information is not public and affects the business interests of a third party, Plaintiff requests that the Court enter a protective order deeming such documents confidential and limiting their disclosure to the parties in this case, and only for the purposes of this case. Upon entry of an appropriate protective order, Plaintiff will provide the sales record to Debtors." Id. at 5:24-6:2. A request for a protective order is not properly made through an opposition to a motion to compel discovery. However, to resolve the matter in a practical fashion, assuming the defendants do not oppose an order requiring confidentiality as to these documents, the court will entertain the terms of such an order at the hearing.

To conclude, the defendants were made aware by the court's original scheduling order, issued September 18, 2014, just what the court meant by requiring that discovery be "completed" by the bar date and they were put on notice that requests to modify the scheduling order would "ordinarily be denied unless the moving party makes a strong showing of diligence in complying with this scheduling order." Scheduling Order, DN 54, at 9:10-12. They were also put on notice by that order of the court's standard for a good faith effort to meet and confer before filing a motion on a discovery dispute, as set forth in the court's Sanchez decision. Here, the defendants failed to make a good faith effort to meet and confer with the plaintiff about this motion and they have failed to make a showing of diligence in pursuing their discovery requests. For these reasons, the motion will be denied.

The court will hear the matter.

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1 Sanchez v. Wash. Mutual Bank (In re Sanchez), 2008 Bankr. LEXIS 4239, 2008 WL 4155115 (Bankr. E.D. Cal. 2008).

2 Nor has the plaintiff raised an issue about those documents. The plaintiff's response is this: "While Debtor must make the documents available to Plaintiff, Plaintiff is not required to undertake the expense of processing those documents and has no obligations relevant to the Motion to Compel in connection with the three boxes of documents." Plaintiff's Resp., at 8:23-25.

3 The parties are cautioned that although certain deadlines were changed by the Amended Scheduling Order, the other terms and requirements of the original Scheduling Order, filed September 18, 2014, remain in effect. The Scheduling Order sets forth in detail the matters that must be included in the pretrial statements. The parties are also cautioned to carefully review the Notice of and Order for Trial that will be issued in this adversary proceeding following the pretrial conference.

24. 14-28694-D-11 CAH-6 — RICHARD/JENNIFER GARCIA — MOTION FOR FINAL DECREE AND ORDER CLOSING CASE 8-3-15 [96]

Tentative ruling:

This is the debtors' motion for a final decree and order closing this chapter 11 case. The motion was noticed pursuant to LBR 9014-1(f)(1) and no opposition has been filed. However, the court has a concern; namely, that the debtors' counsel, Hughes Financial Law ("Counsel"), never obtained court approval of its employment and has never filed an application for approval of its compensation.

Counsel did not file its application for approval of its employment until the case had been pending for seven weeks. The application, which Counsel set for hearing a month later, generated a tentative ruling to deny the application because Counsel had failed to meet the disclosure requirements of Fed. R. Bankr. P. 2014(b) and because the application created confusion as to the nature of one attorney's affiliation with Counsel and as to the amounts that had been paid by the debtors to Counsel pre-petition. The hearing was continued to allow Counsel to supplement the record, which Counsel failed to do. The court therefore denied the motion, on December 22, 2014. The court stated at the hearing that the motion would be denied without prejudice, to which the attorney appearing for the debtors responded, "We'll refile, Your Honor." Yet in the nine months since that time, Counsel has not done so. As a result, it appears Counsel is entitled to no compensation for its services rendered in and in connection with this case.

Further, Counsel has never sought approval of its compensation. It is clear from Counsel's amended Rule 2016(b) statement, filed October 7, 2014, that the debtors paid Counsel at least $18,000 during the year prior to the commencement of this case and another $4,000 14 months before the case was filed, for a total of $22,000. In a declaration in support of Counsel's employment application, Anthony Hughes indicated that the parties initially believed, when this case was commenced, that the debtors still had a $13,000 credit in their account, but when all the billings were turned in, it was determined that all of the money – the entire $22,000 – had gone toward fees incurred in certain pre-petition state court litigation. This situation, according to Hughes, "actually left Debtors $0.00 retainer available for the filing of this case." Hughes Decl., filed Oct. 16, 2014, at 3:18-19. He added, "As a result of this error, the Hughes firm credited this amount back to the debtors for the filing of this case for customer service purposes." Id. at 3:19-20. Finally, he stated in that declaration that he "would seek court authorization for employment and payment of all fees pursuant to Bankruptcy Code §§ 327, 328, 330 and 331." Id. at 4:7-8. This testimony indicates the debtors began this case with a $13,000 credit to be applied to services to be rendered in the case. Counsel has never sought court approval to apply that $13,000 credit toward fees for Counsel's services in and in connection with this case.

It is possible Counsel views itself as having provided all of its post-petition services in this case at no charge to the debtors, since the $13,000 credit Counsel and the debtors initially believed the debtors had remaining was actually exhausted by the pre-petition state court litigation. That conclusion, however, is contradicted by Mr. Hughes' testimony in October of 2014 that Counsel had credited that amount "back to the debtors for the filing of this case for customer service purposes" and that he would seek court approval of Counsel's employment and

compensation. Therefore, if Counsel seeks to retain the $13,000, the court will require that Counsel seek approval of all of its fees and costs incurred in and in connection with this case, both pre- and post-petition, and that Counsel expressly address the issues raised by the court's tentative ruling for the November 19, 2014 hearing on its employment application, DN 42, which Counsel failed to address in response to that ruling or at all. As a result of this open issue, it is not appropriate that a final decree be entered or that the case be closed at this time.

The court will hear the matter.

25.	14-28694-D-11 CAH-7	RICHARD/JENNIFER GARCIA	MOTION FOR ENTRY OF DISCHARGE 8-3-15 [92]

26.	15-20998-D-7 MDM-3	OSCAR ORTIZ	MOTION TO ABANDON 7-22-15 [31]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to abandon real and personal property and the trustee has demonstrated the property to be abandoned is of inconsequential value to the estate. Accordingly, the motion will be granted and the moving party is to submit an appropriate order. No appearance is necessary.

27.	12-32504-D-11 ABS-44	THOMMAS/VIRGINIA YARAK	MOTION FOR FINAL DECREE AND/OR MOTION FOR ENTRY OF DISCHARGE 8-26-15 [599]

28. 15-24942-D-7 JESSICA MARTINEZ — ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-19-15 [32]

29. 15-26574-D-7 CLAIRE BENOIT
JBC-1
TUSCANY ASSOCIATES LIMITED PARTNERSHIP VS. — MOTION FOR RELIEF FROM AUTOMATIC STAY
8-25-15 [23]

30. 14-26078-D-7 LUISITA SONGCO
ADJ-3 — CONTINUED MOTION FOR CONTEMPT
7-23-15 [101]

Final ruling:

Per the order entered on September 1, 2015 the hearing on this motion is removed from calendar. No appearance is necessary.

31. 15-26395-D-7 R & R RV SALES LLC — ORDER TO SHOW CAUSE
8-24-15 [16]